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MAIL STOP AFTER FINAL
RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3624

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	V. Hansen	Attorney Docket No.:	PRBU115349
Application No.:	09/607,502	Group Art Unit:	3624
Filed:	June 28, 2000	Examiner:	G.R. Akers
Title:	SYSTEM AND METHOD FOR MANAGING AND EVALUATING NETWORK COMMODITIES PURCHASING		

REQUEST FOR RECONSIDERATION PURSUANT TO 37 C.F.R § 1.116

Seattle, Washington 98101

August 27, 2003

TO THE COMMISSIONER FOR PATENTS:

Applicant respectfully requests that the above-identified patent application be reexamined and reconsidered. Claims 1-36 are now pending in this application. In an Office Action dated June 10, 2003 (hereinafter "Office Action"), Claims 1-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Giovannoli (U.S. Patent No. 5,842,178) in view of Mandler et al. (U.S. Patent No. 5,732,400), and in further view of Popolo (U.S. Patent No. 5,715,402). Claims 32-36 were also rejected under 35 U.S.C. § 101 for failing to provide a concrete, useful, and tangible result. Pursuant to 35 U.S.C. § 1.116 and for the reasons set forth below, applicant respectfully requests reconsideration and allowance of this application.

Rejection Under 35 U.S.C. § 103

Applicant reemphasizes that the rejection under 35 U.S.C. § 103 requires that a reference have some suggestion or motivation to modify or combine the referenced teachings, and the prior art reference must teach or suggest all of the claim limitations. Applicant respectfully submits that Claims 1 and 18 are in condition for allowance because the combination of the cited references, including Popolo, fails to provide suggestion or motivation to modify or combine the

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referenced teachings. Moreover, the cited references fail to teach each and every element of Claims 1 and 18.

With respect to Claim 1, applicant claims a method for calculating a price data value. More specifically, Claim 1 recites a combination of claimed elements, including the elements of:

> receiving at least one request for quote from said buyer agent, wherein said request for quote includes a product specification data set;
> transmitting the product specification data set to at least one seller agent;
> receiving a price data set from said seller agent, wherein information in said price data set is responsive to the product specification data set;
> receiving [1] metric data from at least one source;
> generating a normalized price data value, wherein the normalized price data value is a statistical value calculated by a comparison of a [2] quoted value derived from the price data set to at least one metric value derived from the metric data; and
> communicating said normalized price data value to at least one output.

As specifically defined in Claim 1, applicant claims a method that generates a resulting price data value that is calculated by the use of two different values: (1) metric data from at least one source, and (2) a quoted value derived from the price data set from a seller agent. As claimed and shown in the example of FIGURE 9, the use of the two values allows the resulting price data value to vary with changes in the (1) metric data even if the (2) quoted value derived from the price data set that is provided by the seller agent remains constant. As a result, this method allows users to view a quote in view of a reference point defined in the metric data, such metric data being entirely independent of and exogenous to the price data set and variable in nature.

Applicant requests that the Examiner refer to the illustration of this claimed method shown in FIGURE 9, which is described in the specification on pages 16-18. As defined in the claim and described in the specification, the normalized price data value calculated in the method

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involves the combination of (1) metric data received from a source, e.g., industry-specific reporting services such as Crowes™ or Random Lengths™ or the Chicago Mercantile Exchange lumber contract (step 925), and (2) a quoted value of the price data set from a seller (step 905). The first paragraph of page 18 illustrates a specific example of the resulting normalized price data value, which presents one value as 97% of another value. This claimed method using this specific combination of data is not suggested by the cited references. In addition, the cited references do not even contemplate a method where a normalized price data value is calculated by specific types of data received from two different sources, "metric data from at least one source" and "price data set from said seller agent."

Although it is true that Popolo describes a method that uses the term "normalizing," this reference only uses the term to describe a method of converting a unit of measure. More specifically, Col. 9, lines 40-41, of Popolo describes that a total weight (referenced as value B) and a unit price (referenced as value C) should be normalized to a common unit of measure. In other words, Popolo merely describes a method where two values are commonly converted to pounds, ounces, or another common unit of measure, before the two values are multiplied. Popolo's conversion is based on static factors inherent in international standards of weights and measures. This conversion does not suggest any of the steps defined in Claim 1.

Applicant and the undersigned have carefully reviewed this reference and cannot find, nor has the Office Action shown, where this reference teaches the specific method defined in Claim 1. Applicant submits that the method of Claim 1 is much more than the method of Popolo, which is merely a conversion of two values to a common unit of measure. As described above, Popolo fails to teach or suggest that a normalized price data value is calculated by a "comparison of a quoted value derived from the data set to at least one metric value derived from the metric data." In addition, Popolo, alone or in combination with other references, fails to suggest a method that calculates a normalized price data value from (1) a price data set from a

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seller, and (2) metric data received from a source. Thus, for at least these reasons, applicant respectfully submits that Claim 1 is in condition for allowance.

Claim 18 also contains the novel aspects described above. Thus, for the same reasons as noted above, applicant respectfully submits that Claim 18 is also in condition for allowance. Since Claims 2-17 and 19-31 depend from Claims 1 and 18, and Claims 32-36 are computer-readable medium claims having language that parallels the language of Claims 1 and 18, the analysis applied to Claims 1 and 18 also apply to these claims and their respective intermediate dependent claims. Therefore, applicant respectfully submits that Claims 2-17 and 19-36 are in condition for allowance.

Rejection of Claims Under 35 U.S.C. § 101

The Office Action rejected Claims 32-36 under 35 U.S.C. § 101 for failing to provide a concrete, useful, and tangible result. Applicant has previously amended these claims to accommodate the Examiner's suggestions, and regardless of this effort, the Examiner again rejects the claims, asserting that these claims do not define an invention having a concrete or useful tangible result. Applicant respectfully disagrees.

Applicant acknowledges the long-standing rule of the Patent Office and the Federal Courts, which accept computer-readable medium claims as patentable subject matter under 35 U.S.C. § 101. Applicant respectfully requests that the Examiner consider the well-known cases, *In re Beauregard* and *In re Lowry*, both of which affirm that computer-readable medium claims embodying a method are patentable. In view of these well-known cases, there should be no question as to the patentability of Claims 32-36.

The undersigned notes that the Examiner and the Examiner's supervisor have authorized the issuance of many patents having claim language that parallels applicant's rejected claims. For example, applicant duly notes that the Examiner has authorized issuance of at least three (3) patents having language that parallels applicant's claim, which defines a "computer-readable

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medium having computer-executable instructions for" a method, "which, when executed, comprise. . . ." Specifically, the Examiner has authorized the allowance of U.S. Patent Nos. 6,339,765; 6,564,192; and 6,493,681. The undersigned notes that Claim 5 of U.S. Patent No. 6,564,192 recites:

> A computer-readable medium that includes instructions for entering bids in an electronic auction wherein said instructions, when executed by a processor, cause the processor to:
>
> a) receive a bidding index reflective of a price of an item to be auctioned;
>
> b) allow receipt of a bid for said item, wherein said bid includes a bid value that is relative to said bidding index for said item;
>
> c) calculate a bid differential between said bid value and said bidding index, wherein said bid differential is zero, positive or negative depending on whether the bid value is equal to, higher or lower than said bidding index respectively, and wherein value of said bid differential remains constant regardless of fluctuations in market value of said bidding index;
>
> d) submit said bid differential into the electronic auction; and
>
> e) receive a feedback from the electronic auction regarding a rank of the bid.

Applicant submits that it has been repeatedly proven that this claim language, and the language of Claims 32-36 of the present application, falls within the boundaries of patentable subject matter defined in 35 U.S.C. § 101. In view of the rational of the rejection, the Examiner is stating that the previously allowed patents, including U.S. Patent No. 6,564,192, are invalid.

In other examples, the undersigned duly notes that the Examiner's supervisor has also allowed issuance of at least twelve (12) patents having language that parallels applicant's claims. For example, the Supervising Examiner has issued a Notice of Allowance of U.S. Patent Nos. 6,604,106; 6,564,192; 6,499,018; 6,493,681; 6,490,567; 6,339,766; 6,339,765; 6,324,525; 6,317,726; 6,263,317; 6,243,468; and 6,223,215. In view of these issued patents, and in view of the long standing case law that follows *In re Lowry*, applicant submits that Claims 32-36

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properly define a concrete, useful, and tangible result that falls within the boundaries of 35 U.S.C. § 101.

CONCLUSION

In view of the foregoing remarks, it is submitted that the present application is in condition for allowance. Reconsideration and reexamination of the application and allowance of the claims are solicited. If the Examiner has any questions or comments concerning this matter, the Examiner is invited to contact applicant's undersigned attorney at the number below.

Respectfully submitted,

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I hereby certify that this correspondence is being transmitted via facsimile to the U.S. Patent and Trademark Office, Group Art Unit 3624, Examiner Geoffrey Akers, at facsimile number 1-703-308-3687 on August 27, 2003.

Date: August 27, 2003

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